

FILE COPY

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF THE APPLICATION :  
FOR A LICENSE TO PRACTICE AS A :  
CHIROPRACTOR OF :

DAVID D. DRAEGER,  
APPLICANT. :

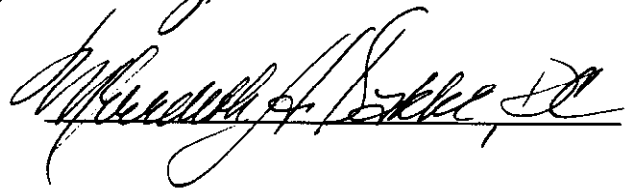
FINAL DECISION  
AND ORDER  
LS9411184CHI

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The State of Wisconsin, Chiropractic Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Chiropractic Examining Board.

Dated this 9<sup>th</sup> day of February 1995.

  
Wendy A. Baker, D.C.

**STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD**

**IN THE MATTER OF THE APPLICATION FOR A  
LICENSE TO PRACTICE AS A CHIROPRACTOR**

**PROPOSED DECISION  
LS9411184CHI**

**DAVID D. DRAEGER,  
APPLICANT.**

The parties to this proceeding for the purposes of Wisconsin Statutes, sec. 227.53 are:

David D. Draeger  
2114 Schofield Avenue  
Schofield, Wisconsin 54476

Chiropractic Examining Board  
P.O. Box 8935  
Madison, Wisconsin 53708

Department of Regulation & Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, Wisconsin 53708

This proceeding was commenced by the filing of a Notice of Hearing on November 18, 1994. On November 18, 1994, the applicant, David Draeger submitted a letter withdrawing his request for a hearing. On or about December 28, 1994, the Division of Enforcement, by its attorney, Peter Sammataro, filed a Notice of Motion and Motion to Dismiss.

Based upon the record herein, the Administrative Law Judge recommends that the Chiropractic Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Applicant, David D. Draeger, 2114 Schofield Avenue, Schofield, Wisconsin 54476, filed an application for a license to practice as a chiropractor.

2. In June 1994, applicant took the examination required under s. 446.02 (2), Stats., for licensure as a chiropractor. Subsequently, he filed a request with the Chiropractic Examining Board for additional credit toward his score on the "Physical Diagnosis" portion of the examination. On September 8, 1994, the Board denied his request for additional credit toward his score on the examination.

3. Applicant withdrew his request for a hearing in this matter by letter, dated November 18, 1994.

4. On December 1, 1994, applicant retook the examination that is the subject of this action. He received a passing score on the examination. On December 8, 1994, the Chiropractic Examining Board issued a license to practice chiropractic (# 3163) to the applicant.

5. On December 28, 1994, the Department of Regulation and Licensing, Division of Enforcement filed a Notice of Motion and Motion to Dismiss this matter on the basis of the applicant's withdrawal of his request for a hearing and the decision of the Chiropractic Examining Board to grant a license to the applicant.

### **CONCLUSIONS OF LAW**

1. The Chiropractic Examining Board has jurisdiction in this matter pursuant to sec. 446.02 Wis. Stats.

### **ORDER**

**NOW, THEREFORE, IT IS ORDERED** that the Motion to Dismiss filed in this matter by the Department of Regulation and Licensing, Division of Enforcement, be and hereby is, granted.

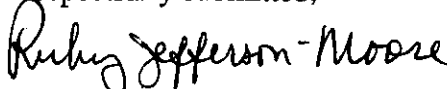
### **OPINION**

Mr. Draeger submitted a letter in November 1994, stating his intent to withdraw his request for a hearing. On December 28, 1994, the Department of Regulation and Licensing, Division of Enforcement filed a Notice of Motion and Motion in this matter on the basis of the applicant's withdrawal of his request for a hearing and the decision of the Board to grant a license to the applicant. In addition, information contained in an affidavit submitted by the Division of Enforcement in support of its motion, indicates that on December 8, 1994, the Board reconsidered its prior decision not to grant the additional points which the applicant had requested toward his score on the examination that is the subject of this action. The Board decided, based upon new information, to award sufficient additional points to the applicant's score so as to constitute a passing grade. There are no remaining factual or legal issues that require determination; therefore, it is recommended that the motion to dismiss filed in this matter be granted.

Based upon the record herein, the Administrative Law Judge recommends that the Chiropractic Examining Board adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 23rd day of January 1995.

Respectfully submitted,



Ruby Jefferson-Moore  
Administrative Law Judge

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN CHIROPRACTIC EXAMINING BOARD.

1400 East Washington Avenue  
P.O. Box 8935  
Madison. WI 53708.

**The Date of Mailing this Decision is:**

FEBRUARY 10, 1995.

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

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### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)